

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 ARNOLD ANDERSON,
5 Plaintiff,

6 v.

7 C. PATSUNA; K. BRYANT; J.
8 AUSCHWITZ; C. VALENZUELA,
9 Defendants.

Case No. 2:17-CV-00808-APG-EJY

ORDER

10 Before the Court is Plaintiff Arnold Anderson's Motions to Appoint Counsel (ECF Nos. 50
11 and 59). The Court has considered the Motions and the Government's response thereto. The Court
12 also considers that Plaintiff has pending a Motion for Summary Judgment filed on October 8, 2019
13 (EFC NO. 44), and Defendants have a Motion for Summary Judgment pending before the Court
14 filed on November 1, 2019 (ECF No. 57). Plaintiff has not yet opposed Defendants' Motion for
15 Summary Judgment, but that response is not due until November 15, 2019. Given the status of this
16 case, the Court finds as follows.

17 As a general proposition, a civil litigant has no right to counsel. *Lassiter v. Department of*
18 *Social Services of Durham County*, 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981); *Storseth v.*
19 *Spellman*, 654 F.2d 1349, 1353 (9th Cir.1981). A court may under "exceptional circumstances"
20 appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1). *Agyeman v. Corrs.*
21 *Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir.2004), *cert. denied sub nom. Gerber v. Agyeman*, 545
22 U.S. 1128, 125 S.Ct. 2941, 162 L.Ed.2d 867 (2005). When determining whether "exceptional
23 circumstances" exist, a court must consider "the likelihood of success on the merits as well as the
24 ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues
25 involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir.1983). Plaintiff's Motion for Summary
26 Judgment, and his exhibits thereto, demonstrate that Plaintiff is capable of articulating his claims in
27 light of the issues presented. Further, a review of Plaintiff's Motion for Summary Judgment and
28 exhibits in support thereof, as well as Defendants' Motion for Summary Judgment shows that

1 Plaintiff is not likely to succeed on the merits of his claim. As such, exceptional circumstances do
2 not exist justifying the appointment of counsel at this time.

3 Accordingly,

4 Plaintiff's Motions for Appointment of Counsel (ECF Nos. 50 and 59) are DENIED without
5 prejudice. Should this matter not be decided on summary judgment, Plaintiff is free to again seek
6 appointment of counsel for purposes of assisting in preparing for a trial on the merits.

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8 DATED: November 13, 2019
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12 ELAYNA J. YOUCHAH
13 UNITED STATES MAGISTRATE JUDGE
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